



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 3399, **Version:** 1

Subject:

Waiver of Section 62-102(c), Re: Unpaved Road Agreements to Allow Access Via Paper Right-of-Way to Dixie Way (District 1)

Applicant: Lawrence Stewart

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant is seeking the Board's approval of a waiver to the Code of Ordinances of Brevard County, Section 62-102(c) to allow construction of a house at Tax ID 2004427 without: (1) constructing an unpaved road within county right-of-way; (2) providing for the maintenance of said roadway; and (3) agreeing to a proportion share assessment for the paving of the roadway.

Summary Explanation and Background:

Section 62-102 stipulates that no building permit for a single-family dwelling will be issued by the County unless the property abuts a public maintained road dedicated and accepted for maintenance by the County. Section 62-102(c), Unpaved road agreements, provides that the Board and a property owner whose property abuts a right-of-way (ROW) which is not maintained by the County may enter into an agreement to construct a home that is subject to: (1) the applicant constructing an unpaved road within county right-of-way; (2) providing for the maintenance of said roadway; and (3) agreeing to a proportion share assessment for the paving of the roadway (see Staff Report). The applicant is requesting that the Board allow them to construct a single-family home with the access via an unpaved and unmaintained County right-of-way without entering into the required agreement for unpaved roadway construction, maintenance, and paving.

The subject property is located approximately 640 feet east of Dixie Way, which is a county maintained unpaved road. The unmaintained right-of-way in question intersects with Dixie Way, is 30' wide, and was created by Plat Book 8, Page 48 recorded in 1937. Aerial photos from 2014 to current show a grassy trail through the right-of-way. Asphalt millings have recently been placed in the right-of-way without a permit. Asphalt millings are not an F.D.O.T. or County approved base material, and do not meet the Code requirements for a paved or unpaved road. Property to the east of the subject property is also undeveloped, and could potentially seek access through this unmaintained right-of-way in the future. The properties west of the subject property have frontage on Dixie Way and were developed with single family homes in 1994 and 2005.

Pursuant to Section 62-102(d), staff has not confirmed that strict compliance with Section 62-102(c) causes

undue hardship and serves the public interest. Staff requests the merits of the request be evaluated by the Board of County Commissioners. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 21WV00016

Contact: Amanda Elmore, Assistant Director, Ext. 58996